

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 77-648-E - ORDER NO. 78-71✓

February 6, 1978

David H. Armstrong, Jr.,	)	
	)	
Complainant,	)	
	)	
-vs-	)	ORDER
	)	DENYING RELIEF
	)	
South Carolina Electric &	)	
Gas Company,	)	
	)	
Defendant.	)	
	)	

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I.

This matter comes before the South Carolina Public Service Commission ("the Commission") by way of a Complaint, filed on November 17, 1977, by David H. Armstrong, Jr. ("the Complainant"), directed at certain practices of South Carolina Electric & Gas Company ("the Defendant"). While the Complainant's pleadings identified no specific relief,<sup>1</sup> it subsequently became apparent that the Complainant sought a determination by the Commission that the Defendant's policies and procedures for the receipt of minor coins in payment for electric bills are unreasonable and should be discontinued.

The instant proceeding was conducted pursuant to R.103-821C of the Commission's Rules of Practice and Procedure. The Commission's Executive Director prepared a Notice of Hearing which was provided to both parties of record. The Notice of Hearing was subsequently published in the State Register<sup>2</sup> as provided by S. C. Code Ann., § 1-23-40 (1976).

On January 5, 1978, a public hearing relative to the issues raised in the Complaint herein was held in the offices

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<sup>1</sup>The Complaint did request that the Commission administer the matter as a formal proceeding. See, R.103-835 of the Commission's Rules of Practice and Procedure.

<sup>2</sup>See, State Register, Vol. I, No. 16, published on December 12, 1977.

of the Commission. Tom Turnipseed, Esq., represented the Complainant; Patricia T. Marcotsis and Randolph R. Mahan, Esq., represented the Defendant; Robert T. Bockman, Esq., General Counsel, represented the Commission and Commission staff. The record in this proceeding consists of testimony and one exhibit offered by witnesses for the Complainant and of testimony offered by a witness for the Defendant.

The Commission acknowledges its jurisdiction to hear this matter pursuant to the provisions of S. C. Code Ann., § 58-27-140(1) (1976).

## II.

The gravamen of the Complaint herein involves the Defendant's stated policy of refusal to accept "minor coins"<sup>3</sup> in excess of twenty-five cents (\$0.25) or silver coins in excess of ten dollars (\$10.00) as payment for utility bills if such coins are not counted and rolled prior to tender for payment.<sup>4</sup> The Complainant asserts that such policy is inconsistent with the applicable federal law. Furthermore, the Complainant alleges that the implementation of such policy unreasonably discriminates against those customers seeking to satisfy their obligation for utility services by the tender of uncounted and unrolled coins. After a full review of the evidence in the record before us, the Commission cannot agree with either proposition advanced by the Complainant.

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<sup>3</sup> Five-cent pieces and one-cent pieces. 31 U.S.C.A. §317 (1976).

<sup>4</sup> See, Hearing Exhibit No. 1, p. 1.

The Complainant contends that the language of 31 U.S.C. § 463 (1933) is controlling in the instant circumstances and that such language renders the Defendant's policy unlawful. That statute provides, in pertinent part:

(a) Every provision contained in or made with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, is declared to be against public policy; and no such provision shall be contained in or made with respect to any obligation hereafter incurred. Every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein or made with respect thereto, shall be discharged upon payment, dollar for dollar in any coin or currency which at the time of payment is legal tender for public and private debts.

The Complainant's reliance on such language is misplaced.

The particular intent of Section 463 was to prohibit creditors from demanding the satisfaction of a debt in an amount in excess of the stated face value of the debt. Guaranty Trust Co. of New York v. Henwood, 307 U.S. 247, 59 S.Ct. 847, 83 L.Ed. 1266 (1939). Furthermore, Section 463 specifically provides that "every obligation ... shall be discharged upon payment ... in any coin or currency which at the time of payment is legal tender for public and private debts." (Emphasis added.) Companion sections of the U. S. Code define the term "legal tender" in regard to coinage and should be evaluated in association with Section 463 and construed in pari materia. Gregg Dyeing Co. v. Query, 166 S.C. 117, 164 S.E. 588 (1931),<sup>5</sup> aff'd 286 U.S. 472, 52 S.Ct. 631, 76 L.Ed. 1232 (1932).

Section 459 of Title 31 of the U. S. Code provides that silver coins "of smaller denominations than \$1 shall be legal tender in all sums not exceeding \$10 in full payment of all dues public and private." In addition, Section 460 states that "the minor coins of the United States [i.e., five-cent pieces and one-cent pieces] shall be legal tender, at their nominal value for any amount not exceeding 25 cents in any one payment."

Based upon a coherent reading of the related sections, the Commission is of the opinion, and so finds, that the Defendant's policy in regard to the acceptance of coins of nominal value is consistent with the applicable provisions of the controlling statutory law. The Defendant cannot be required to accept for its utility services either silver coins in excess of \$1 when the total obligation is greater than \$10, or minor coins in excess of 25 cents in any one payment. Munick v. City of Durham, 106 S.E. 666 (N.C., 1921). The stated requirements that nominal coins be rolled and counted by the customer prior to the tender of payment is patently within the parameters of the pertinent statutes.

Furthermore, the Commission has evaluated the reasonableness of the Company's policy and the attendant consequences in the absence of such a policy. In so doing, the Commission has carefully balanced the interests of those customers like the Complainant who desire to tender nominal coins, unrolled and uncounted, to satisfy their obligations for payment in receipt of utility services, with the interests of the remainder of the Company's ratepayers.

The Defendant's witness Curtis L. Rye, Vice President for Customer Operations, Metropolitan Columbia, offered estimates

of the additional expenditures necessary to provide the necessary space, equipment and personnel for the receipt of unrolled and uncounted coins. According to the witness, initial expenses of approximately \$1,200,000 would be required to provide the facilities and personnel at the Defendant's various offices to accommodate customers choosing to tender payment in loose coinage. Additional expenses would be required to equip and staff other collection points located throughout the Defendant's service area.

The Commission finds no justification in requiring the Defendant to make expenditures of the magnitude necessary to address the convenience of a relatively small number of customers, when such expenses must ultimately be borne by all ratepayers of the Defendant. Such a requirement would run directly counter to this Commission's consistent position that all expenses incurred by its jurisdictional utilities remain at the lowest reasonable level consistent with the provision of adequate and reliable service.<sup>6</sup>

The Commission has herein found that the Company's collection practices, as embodied in its policy regarding the tender of coins for payment, are reasonable. The requirement that a customer making such payment in coins of nominal value do so with rolled and counted coins reflects a reasonable differentiation in treatment which does not amount to unlawful or unreasonable discrimination. The claims of the Complainant to the contrary are without merit.

Should this Commission grant the relief sought by the Complainant and thereby find the Company's policy and

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<sup>6</sup>  
See, e.g. Order No. 77-831, pp. 45-47, issued on December 13, 1977, in Docket Nos. 76-645-E and 18,362.

practice unreasonable, the result would operate to the detriment and delay of other customers waiting to pay their utility bills. Such customers would be unduly detained while a counting process took place. Clearly, the Commission cannot sanction a practice which injects discourtesy into the customer-utility relationship. Convenience to the few does not warrant discomfort to the many.

IT IS THEREFORE ORDERED:

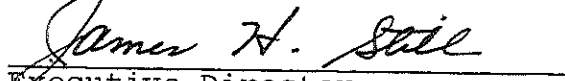
1. That the relief requested by the Complaint in this matter be, and hereby is, denied for the reasons set forth hereinabove.

2. That this Order remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director  
(SEAL)